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Miscellaneous Documents

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- San Bernardino County Superior Court web based case report, MWV1203105, Defendant Barr
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INTERNAL AFFAIRS BUREAU SUMMARY
CASE #IV2316815

Involved Employee:	**Linda Barr, Sergeant** **Employee [redacted]** **Century Regional Detention Facility**
Date:	**July 11, 2012 (Wednesday)**
Time:	**0124 hours**
Location:	[redacted]

SYNOPSIS

On July 11, 2012, at approximately 0124 hours, while off duty in the city of Ontario, Subject Linda Barr was arrested by officers from the Ontario Police Department for Domestic Assault (273.5 PC) and Delaying/Resisting a Police Officer (148 PC). (see Ontario Police report 120700580 under **Exhibit A and officers audio interaction with Subject Barr in Exhibit C**).

The handling officer, Officer [redacted] #[redacted], responded to Subject Barr's residence regarding an incomplete 9-1-1 call (see **Exhibit B**). He contacted Subject Barr and [redacted] (Witness [redacted], [redacted] of Subject Barr), who were still arguing when he arrived. Officer [redacted] observed that Witness [redacted] had a bloody mouth and she would have to spit out blood when speaking to him. He also observed Subject Barr's right eye was swollen shut and black and blue in color. Both individuals told Officer [redacted] that they were arguing only and Witness [redacted] said she was bleeding due to being anemic. Officer [redacted] requested his supervisor, Sergeant [redacted] #[redacted], respond to his location, due to Subject Barr being a Sergeant with the Los Angeles County Sheriff's Department.

> **IAB Note:** Subject Barr told Officer [redacted] her eye was swollen due to an eye infection. Officer [redacted] noted in his report that Subject Barr provided work related paperwork showing this. Sergeant [redacted] noted in his report he observed medical paperwork showing Subject Barr was treated for [redacted] and [redacted] with an injury date of July 8, 2012 (see picture in **Exhibit D**).

> **IAB Note:** Officer [redacted] interactions at the location with Subject Barr and Witness [redacted] were digitally recorded and are contained in **Exhibit C**.

Witness [redacted] told Officer [redacted] the argument was due to her becoming jealous over another woman who was a friend (co-worker) of Subject Barr's. Witness [redacted] said they had gone out for drinks (alcohol) and then went home, when the friend left, she and Subject Barr began to argue. As Officer [redacted] interviewed Witness [redacted] he observed her mouth continually bled but he did not see any injuries inside of her mouth. He also observed physical damage to property including; broken glass in the hallway from a picture frame, a bent window screen laying in the living room, and Witness [redacted] cell phone in three pieces on the floor. Witness [redacted] told Officer [redacted] she broke some pictures and that was why broken glass was on the floor. (See pictures under **Exhibit D**).

> **IAB Note:** Subject Barr in her Internal Affairs Bureau interview identified Deputies [redacted] #[redacted] and [redacted] #[redacted] as being the "friends" who were at the location prior to the incident.

Subject Barr told Officer [redacted] she had a [redacted] with Witness [redacted] for [redacted] and they had a [redacted] together [redacted] She told Officer [redacted] she wanted Witness [redacted] out of her house and reiterated the jealousy account offered by Witness [redacted] She told Officer [redacted] there was no physical violence between her and Witness [redacted] and when asked why Witness [redacted] was bleeding from her mouth, Subject Barr said, "She just does that."

Officer [redacted] and Sergeant [redacted] escorted Witness [redacted] to her bedroom so she could gather her belongings and leave the location. As Witness [redacted] was gathering her belongings, Officer [redacted] and Sergeant [redacted] noticed injuries began to appear on Witness [redacted] including; bruising to the right side of her neck that appeared to be three finger marks from being choked, swelling and a bluish color to her nose, cuts on both sides of her tongue, bruising on her upper right arm and scratches to her lower right arm (see pictures in **Exhibits D**).

Officer [redacted] asked Witness [redacted] how these injuries occurred, but her explanations, including that a necklace she was not wearing caused the neck bruising, were refuted by the evidence. Witness [redacted] became uncooperative with Officer [redacted] and stated Subject Barr was a Sergeant and she did not want her to lose her job. Witness [redacted] told the officers she did not believe them about her injuries and said she (Witness [redacted]) must have done them to herself. When Witness [redacted] was asked to look in the mirror at her injuries Officer [redacted] noted she had a surprised look on her face and said she did not know she looked that way (with the injuries). Witness [redacted] told Officer [redacted] and Sergeant [redacted] she caused the injuries to herself, then changed her story and said maybe Subject Barr accidentally caused the injuries by trying to stop her from going crazy.

Officer [redacted] consulted with Sergeant [redacted] and the decision to place Subject Barr under arrest for domestic violence was made. Sergeant [redacted] and Officer [redacted] #[redacted] contacted Subject Barr and explained to her why she was being arrested. Subject Barr began to cry and denied she did anything wrong. When Officer

[redacted] told her to put her hands behind her back, Subject Barr did not comply. Officer [redacted] stated in his report, "I gently grabbed her upper left arm as she was still sitting and she immediately pulled away from me."

Officer [redacted] said he told Subject Barr she did not want to "go this route" and Sergeant [redacted] also began speaking to her to get her compliance. Subject Barr stood up and Sergeant [redacted] advised her to place her hands behind her back, to which she placed them on her hips. Officer [redacted] noted that Subject Barr held her hands there for approximately ten seconds until she placed her hands behind her back and was taken into custody "without any further resistance."

<u>**Ontario Police Sergeant [redacted]**</u>

Sergeant [redacted] responded to this incident at the request of the handling officer and documented his actions/observations in a supplemental report (see **Exhibit A**).

> **IAB Note:** Sergeant [redacted] interactions at the location with Subject Barr and Witness [redacted] were digitally recorded and are contained in **Exhibit C**.

Sergeant [redacted] observed Witness [redacted] wiping blood from her mouth and noticed a moderate smell of alcohol coming from her breath and person. Witness [redacted] said she had a few shots and a few beers and that she and Subject Barr were not fighting and she did not know who called 9-1-1.

Sergeant [redacted] monitored Witness [redacted] as she walked through the kitchen to gather some of her belongings. After Subject Barr made a comment to Witness [redacted] about their relationship, Witness [redacted] asked Sergeant [redacted] what she needed to do to "file." Witness [redacted] was questioned about her comment and said she wanted to file something, but would not give Sergeant [redacted] any additional information.

Sergeant [redacted] and Officer [redacted] accompanied Witness [redacted] to her bedroom to gather her belongings. While there, Sergeant [redacted] noted that Witness [redacted] had several red marks along the right front side of her neck, in the shape of fingers. Sergeant [redacted] noted these marks were consistent with Witness [redacted] being choked.

Sergeant [redacted] asked Witness [redacted] about the marks and she attributed them to her necklace. When told her injury was not caused by a necklace, Witness [redacted] said she did not know how she got the injury and that she was drunk. Sergeant [redacted] noted as he spoke to Witness [redacted] that her nose was swollen and bluish in color.

Sergeant [redacted] interviewed Subject Barr and noted that he detected a slight odor of alcohol coming from Subject Barr's breath and person, and Subject Barr admitted to having a few beers. She told Sergeant [redacted] that Witness [redacted] was jealous of one of her friends that had come over and an argument ensued.

Subject Barr told Sergeant [redacted] that Witness [redacted] had "wigged" out and broke her mother's picture. She said Witness [redacted] had broken the window screen and crawled through the window from the outside. She denied ever touching or pushing Witness [redacted] outside. Subject Barr was asked about the marks on Witness [redacted] neck and she denied doing anything to Witness [redacted] to cause the injury. Subject Barr denied calling 9-1-1 and did not know who did.

Sergeant [redacted] noted that Subject Barr had a small scratch/abrasion under her right eye, a small scratch on her left cheek, and a small ½ inch scratch near her right elbow. Subject Barr told Sergeant [redacted] her eye was swollen from "messing" with it and was so swollen she had missed work. Sergeant [redacted] noted that he observed medical paperwork indicating Subject Barr was being treated for [redacted] and [redacted]

Subject Barr told Sergeant [redacted] that the police had been at her residence regarding an argument in the past but nothing happened. He checked Ontario PD records and discovered that Ontario Police Officers had been at Subject Barr's residence in May of 2009 regarding an incomplete 9-1-1 call (OPD incident #091470609). No subject names were listed in the call and it was a verbal argument only.

Sergeant [redacted] wrote that based on the victims (Witness [redacted]) injuries and evidence at the scene, he believed Subject Barr had assaulted Witness [redacted] Sergeant [redacted] ordered Officer [redacted] to place Subject Barr under arrest and she was transported to Ontario Police Department for processing.

At the station, Sergeant [redacted] noted Officer [redacted] had attempted to obtain pictures of Subject Barr's face, arms and legs, but she refused (see **Exhibit C, Audio 1, track 1, starting at the 12:10 mark**). Sergeant [redacted] explained to Subject Barr these were needed as part of their investigation and to document whether she had any injuries. Subject Barr continued to refuse and it was explained she would be charged with delaying a police officer. Subject Barr did not change her stance and was additionally charged with 148 PC.

> **IAB Note:** In reviewing the audio interaction between Sergeant [redacted] and Subject Barr beginning at approximately the 13:45 minute mark of audio 1, track 1, in **Exhibit C**, Sergeant [redacted] explains to Subject Barr that the Ontario Police Department is a temporary holding facility and she could not post bond there. He then explained to Subject Barr that they were doing an investigation and needed to get photographs and that she was delaying them. Subject Barr said "Oh well" and then said to Sergeant [redacted] "Your delaying my life, putting me here when I shouldn't be here." Sergeant [redacted] continued to request Subject Barr take the photographs they were requesting, including pictures of her arms and hands, but Subject Barr continued to say no. At this point Sergeant [redacted] asked Subject Barr if she was refusing to take photographs and

> she said "Yes." Sergeant [redacted] then advised Subject Barr that the additional charge (148 PC) would be added and Subject Barr said "Ok."

Sergeant [redacted] responded back to Subject Barr's residence with LASD Captain Joseph Nunez to take possession of two handguns (one Department issued) that Subject Barr had in the glove box of her vehicle. Sergeant [redacted] noted Captain Nunez retrieved two loaded handguns from the vehicle; 9MM Beretta serial #BER[redacted] and a .38 caliber S & W revolver serial #CEM[redacted] (see printouts in **Exhibit G**). Captain Nunez took possession of the Beretta and Ontario PD placed the S & W into evidence.

<u>Ontario Police Officer</u> [redacted]

Officer [redacted] responded to this incident and documented his actions/observations in a supplemental report.

Officer [redacted] wrote that he and Sergeant [redacted] contacted Subject Barr to place her under arrest. Upon contact, Officer [redacted] told her he was going to be "straight forward" with her, and due to the evidence she was being placed under arrest. Officer [redacted] said Subject Barr became upset and denied wrongdoing. When he told her to place her hands behind her back Subject Barr did not comply. Officer [redacted] wrote he gently grabbed her upper left arm as Subject Barr was seated, and she immediately pulled away from him. After speaking to her further, along with Sergeant [redacted], Officer [redacted] noted that Subject Barr was taken into custody "without any further resistance."

> **IAB Note:** This incident is captured on audio by the Ontario Police Department at the scene. In listening to this encounter on **Track 4 (Exhibit C)**, Subject Barr is vocally upset about being arrested and is asked twice by Sergeant [redacted] to put her hands behind her back. When asked the first time, Subject Barr responded, "I am not stupid, I know how this goes."

Officer [redacted] escorted Subject Barr to his patrol car where she was seated in the rear seat and transported to Ontario PD station. At the station, Officer [redacted] requested a Forensic Specialist take photographs of Subject Barr. Subject Barr refused to allow photographs be taken.

Officer [redacted] attempted to interview Subject Barr regarding the incident at the station, but she would not consent. However, Subject Barr made spontaneous statements about what happened including that Witness [redacted] was doing this to her so Witness [redacted] Subject Barr said that Witness [redacted] broke her mom's picture and she got "pissed."

Officer [redacted] noted that Los Angeles County Sheriff's Captain Joseph Nunez responded to Ontario Police Department and spoke with Subject Barr. After they

finished speaking, Officer [redacted] asked Forensic Specialist [redacted] to take photographs of Subject Barr. Subject Barr refused a second time to comply. Officer [redacted] asked Subject Barr if she was refusing to cooperate with law enforcement and Subject Barr said, "Yes." (see **Exhibit C Audio 1, track 1, starting at the 12:10 mark)**

> **IAB Note:** During this interaction between Officer [redacted] and Subject Barr, Subject Barr can be heard telling the officers she wanted to make a phone call. Officer [redacted] advised Subject Barr they needed to take photographs and for her to cooperate with them so they could finish their investigation. Subject Barr told him she would not do anything until she made a phone call. When asked if she was refusing to cooperate, Subject Barr stated she was refusing to take pictures.

> **IAB Note:** Subject Barr had already been contacted by Captain Joseph Nunez prior to this interaction.

Officer [redacted] went back to Subject Barr's neighborhood on July 11, 2012, at approximately 2300 hours, in an attempt to locate any witnesses to this incident, none were located (see report in **Exhibit A**).

Court Case

Subject Barr's arrest was handled under case #MWV1203105 in the San Bernardino County Superior Court. Charges of 148 PC – Obstruct/Resist a Public Officer and 415 PC - Disturbing the Peace, were filed. On February 6, 2013, Subject Barr plead *Nolo Contendre* to the 415 PC and was found guilty. The 148 PC charge was dismissed as part of the plea agreement (see **Exhibit F**). The following sentence was set;

- Violate no law other than minor traffic
- Total fines of $464, includes victim restitution fine
- 36 week anger management program
- Serve 1 day in a San Bernardino County Jail facility, credit time served

The initial arrest by Ontario Police Department for Domestic Violence (273.5 PC) was not filed by the District Attorney (see **Exhibit F**). Supervising Deputy District Attorney David Hidalgo wrote:

- The facts described in the report were consistent with mutual combat
- It cannot be determined who initiated the physical confrontation
- Both have 5th Amendment rights against self-incrimination

- Cannot be compelled to testify

- Insufficient evidence to corroborate the statements given by either subject

- The victim refused to cooperate and provide more information about what occurred and how she obtained her visual injuries

- There were no other witnesses and the domestic violence allegation against either subject cannot be proved beyond a reasonable doubt

Additional Information

Sergeant Barr was interviewed as part of this investigation. She denied that there was any physical altercation between herself and Witness [redacted], and that only their [redacted] was home during their verbal argument. During her interview she revealed that she had been at a restaurant with two Sheriff Department employees and that they accompanied her and Witness [redacted] back to their residence that evening. Subject Barr stated that the employees were Senior Deputy [redacted] and Deputy [redacted]. Both of these employees were interviewed as witnesses and Deputy [redacted] revealed another employee, Sergeant [redacted] had been at the restaurant as well, but did not go with them to Subject Barr's residence. Sergeant [redacted] was also interviewed as a witness in this matter.

All of the above witnesses stated they did not see any physical or verbal altercation between Subject Barr and Witness [redacted] that evening. When shown pictures of the bruising on Witness [redacted] neck all witnesses said they did not notice the bruising on Witness [redacted] that evening.

> **IAB Note:** In pictures provided by Ontario Police Department, Witness [redacted] is shown wearing a multi-colored tank top with an unobstructed view of the injury to her neck. In pictures taken later that day by Ontario Police Department of Witness [redacted] injuries, which became even more visible, she is still wearing the same tank top.

Each witness was able to verbally describe their recollection of the appearance of Subject Barr's right eye that evening, as they each remembered Subject Barr suffering from an eye infection. When shown a picture of Subject Barr's booking photograph (see **Exhibit D and E**), which depicted her right eye as being severely swollen, each witness believed the photograph showed Subject Barr's eye as being more swollen and discolored from what they remembered when at the restaurant and at Subject Barr's home.

This investigator reviewed the injury report that was written/investigated by Sergeant [redacted] (Witness [redacted]) on July 9, 2012, in regards to Sergeant Barr's eye injury. The report stated that the right eye of Subject Barr was red

and almost swollen shut, [redacted] The report was signed and approved by Sergeant Sandra Alexander [redacted] on July 24, 2012.

Subject Barr was treated by Phuong, Narin P.A. [redacted] on July 9, 2012. The notes indicated [redacted] off work until July 10, 2012 (1 day). Subject Barr was seen again on July 16, 2012, by Arreguin, G. [redacted] The Healthworks report indicated: [redacted], return without restrictions.

Witness [redacted] was interviewed as part of this investigation. When shown the booking photograph of Subject Barr she stated that the injury depicted in the picture was more severely swollen than what she recalled. She said she would not have written a "92" (Employee Injury Report) if Subject Barr had come to work with the pictured injury and would have contacted a lieutenant.

Witness [redacted] declined to be interviewed as part of this investigation.

The following narratives are intended only as synopses of the interviews. Additional information and precise wording may be obtained by reviewing the audio recorded interviews and verbatim transcriptions.

Witness [redacted]

Witness Alcaraz was contacted by this investigator via phone message on August 6, 2013, requesting an interview. She returned my call on August 7, 2013 at 2001 hours, leaving a voice message that she declined to be interviewed.

Witness Deputy [redacted]

Witness [redacted] was interviewed on July 30, 2013, at Century Regional Detention Facility by Sergeant Patrick Mannion and Sergeant Brenda Parker of the Internal Affairs Bureau.

Witness [redacted] said that on July 10, 2012, she met with Subject Barr, Subject Barr's friend (Witness [redacted]), and Witness [redacted] at a Mexican Restaurant in the city of Industry. She said she arrived at the restaurant at approximately 2230 hours after getting off work.

> **IAB Note:** Witness [redacted] when shown a picture of Witness [redacted] identified her as being at the restaurant (see **Exhibit E**).

Witness [redacted] said they stayed at the restaurant until approximately midnight and then they went to Subject Barr's residence. She did not see any fighting or verbal arguing between Subject Barr and Witness [redacted] at the restaurant. Witness [redacted] said she stayed at Subject Barr's residence for about an hour, leaving around 0130 hours, and did not witness any fighting or verbal arguing between Subject Barr

and Witness [redacted]. Witness [redacted] said she did not observe any bruising on Witness [redacted] that night and said she did not observe bruising on Witness [redacted] neck as shown to her in a picture that was provided by Ontario Police Department (see **Exhibit D and E**).

Witness [redacted] was asked if Subject Barr had any kind of swelling on her eye (right) and Witness [redacted] said Subject Barr had an eye infection. She said Subject Barr looked like she had a black eye, as the eye was puffy and dark around it.

Witness [redacted] was shown a picture of the eye as taken in her (Barr) booking photograph and asked if it looked that way that night (see **Exhibit E**). Witness Gonzalez said, "It wasn't that bad, no." She explained that Subject Barr's eye was puffy, dark, and able to be opened, and reiterated it did not look as it did in the photograph. She further explained that Subject Barr's eye was not as swollen when she saw it. Witness [redacted] said Subject Barr had told her the eye was getting worse and that was why Subject Barr had been off work. Witness [redacted] said she left Subject Barr's residence that evening with Witness [redacted]

Witness Deputy [redacted]

Witness [redacted] was interviewed on August 5, 2013, at Century Regional Detention Facility by Sergeant Patrick Mannion and Sergeant Louis Vigil of the Internal Affairs Bureau.

Witness [redacted] said that on July 10, 2012, she was at El Tepeyac restaurant with Subject Barr, Witness [redacted], Witness [redacted] and Witness [redacted], whom she said arrived later in the evening. Witness [redacted] said they arrived at the location in the early evening hours (between 3-5 pm) and they were drinking beers, but she did not know the exact amount, nor did she remember if Witness [redacted] had been drinking. Witness [redacted] said she did not observe Subject Barr and Witness [redacted] have any problems while at the restaurant and said, "We were having a good time."

Witness [redacted] said they left the restaurant around 10:30 pm, but then also said it was late and did not remember the exact time. She said they went to Subject Barr's residence in Ontario (CA), except for Witness [redacted] and stayed for approximately an hour and a half. Witness [redacted] said Subject Barr's and Witness [redacted] was also there. She said she did not drink that much anymore and left with Witness [redacted] whom she had carpooled with.

Witness [redacted] said she did not observe any marks or injuries on Witness [redacted] that night and said she did not observe injuries on Witness [redacted] neck as shown to her in a picture that was provided by the Ontario Police Department (see **Exhibit D and E**).

Witness [redacted] said she did not observe any injuries or bruising on Subject Barr that night and when asked about Subject Barr's eye, said she (Barr) had pink eye. She

described it as being puffy and that she [redacted] made a joke about it at the restaurant. She went on to describe it (eye) as being dark, a little swollen, and that Subject Barr could open it a little bit. Witness [redacted] said, "It almost looked like she had like a little lazy eye."

Witness [redacted] was shown a picture of the eye as taken in her (Barr) booking photograph and asked if it looked that way that night (see **Exhibit E**). Witness [redacted] said, "No, sir. It didn't look like that," and went onto say that the bottom part of the eye was not as swollen or bruised and the upper part of the eye was not as dark (as shown in the picture).

Witness Sergeant [redacted]

Witness [redacted] was interviewed on August 5, 2013, at the Internal Affairs Bureau by Sergeant Patrick Mannion and Sergeant Mark Reyes of the Internal Affairs Bureau.

Witness [redacted] said she remembered going to El Tepeyac restaurant with Subject Barr, [redacted] (Witness [redacted]), and Witness [redacted], but did not remember the exact date. She said the others were there before she arrived, which was around five (pm). She said she stayed until around seven (pm) because she had somewhere else to be, and did not see them for the rest of the night.

Witness [redacted] said Subject Barr and Witness [redacted] were drinking beer and said "we did not have many to be honest." She went onto explain that there was a problem with the beers having rust on the bottle caps and believed they sent more back, than they actually consumed.

Witness [redacted] said she did not witness Subject Barr or Witness [redacted] have any verbal or physical altercations, and did not hear of any rumors that they were having any kind of problems while she was there.

Witness [redacted] said she did not observe any kind of marks scars or bruising on Witness [redacted] at the restaurant and said she did not observe bruising on Witness [redacted] neck as shown to her in a picture that was provided by Ontario Police Department (see **Exhibit D and E**). Witness [redacted] said no, when asked if she remembered Witness [redacted] complaining about any marks or bruising

Witness [redacted] said there was something different about Subject Barr's eye (right) that night. She said she did not know if it was swelling or bruising and had known that Subject Barr had some sort of infection "or something" going on. She said she did not remember if the eye was open or if Subject Barr could see out of it. She said it did not look like pink eye and remembered Subject Barr saying she was off work because of an eye infection.

Witness [redacted] was shown a picture of the eye as taken in her (Barr) booking photograph and asked if she remembered Subject Barr's eye looking that way (see **Exhibit F**).

Witness [redacted] said she remembered the "cut looking thing" (lower right eye lid) and that it was dark. She said she did not remember it being shut (as depicted in the picture), but thought she remembered the bruising on the eyelid. Witness Sosa went onto say the right eye appeared to be puffier than she recalled and had more coloring to it, being darker than what she recalled it being in person.

Witness [redacted]

Witness [redacted] was interviewed on August 13, 2013, at the Criminal Courts Building by Sergeant Patrick Mannion and Sergeant Mark Reyes of the Internal Affairs Bureau.

Witness [redacted] said she remembered writing an employee injury report for Subject Barr regarding an eye injury, possibly pink eye, on July 9, 2012. She said she could not remember exactly what the eye looked like, just that it was red and swollen, and looked different than the average person with pink eye.

Witness [redacted] was shown a picture of the eye as taken in her (Barr) booking photograph and asked if she remembered Subject Barr's eye looking that way (see **Exhibit E**). She said, "No, not at all." Witness [redacted] went onto say the eye looked worse than what she had saw (in person) and it was "a lot more redder [sic]."

Witness [redacted] was asked if the eye was more swollen than what she remembered. She said, "Severely." Witness [redacted] said if she had seen this (eye condition as shown in the picture) the day she wrote the report, she would not have written it. She said after looking at the picture, *"If she (Barr) would have come in with that injury, I, to work, I would not have filled out a 92 for pink eye, I would have you know, Employee Support Services, I would have immediately contacted a lieutenant, because that was a clear injury to her face. Somebody hit her in her face."*

Witness [redacted] said that she had been texted by Subject Barr when she (Barr) was [redacted]. She said Subject Barr texted her that she (Barr) was going to possibly be fired. Witness [redacted] said Subject Barr had texted her that she (Barr) was uncooperative with the agency that arrested her because they wanted to take pictures of her eye. She said the texting conversation was Subject Barr reminding Witness [redacted] that she had pink eye and Witness [redacted] telling Subject Barr she would testify to having filled out a "92" (Employee Injury Report)

Witness [redacted] said she would text Subject Barr bible verses while she (Barr) has been [redacted] to keep Subject Barr's spirits up. She said Subject Barr did not text her that she (Barr) had been interviewed by Internal Affairs. Witness [redacted] attempted to retrieve these text messages with Subject Barr from her personal phone, but was unable to do so.

Subject Linda Barr

Subject Barr was interviewed on July 29, 2013, at the Internal Affairs Bureau, by Sergeant Patrick Mannion and Sergeant Laura Haynes of the Internal Affairs Bureau. She was represented by Audra Call from the law offices of Green and Shinee.

Sergeant Barr stated there was nothing "at this time" she wanted to "add, modify or delete," about her statements to the Ontario Police Department. She said she is still living with Witness [redacted].

Subject Barr said she had gone out drinking at a Mexican restaurant in the City of Industry the night of this incident. She said she was with Witness [redacted], Witness [redacted] and Witness [redacted], whom she said met them at the restaurant after work. Subject Barr said everyone was drinking and she remembered having "maybe six beers or so" in total that night (This would include drinks she later consumed at her residence). She said she did not feel impaired with six beers, from what she recalled. Subject Barr said she did not have any problems with Witness [redacted] while at the restaurant.

Subject Barr said all four of them left the restaurant around eight or nine (PM) and went to her home. She said they continued to drink at her home, but she did not know what Witness [redacted] had to drink because she (Barr) was outside talking with Witness [redacted] most of the time. Subject Barr said Witnesses [redacted] and [redacted] stayed about an hour and left around "11 or so." She said her (Barr) and Witness [redacted] did not argue with each other in front of the witnesses. Subject Barr said her [redacted] was there at her house when everyone was there and said he had been brought home by the neighbor (nfd) who was watching him. She said they later put him to bed around 10pm.

Subject Barr said half an hour to an hour after the witnesses left, she and Witness [redacted] got into a verbal argument about Witness [redacted] being jealous of Witness [redacted]. She said Witness [redacted] had told Witness [redacted] that she (Barr) hangs out after work drinking with them (Witness [redacted] Witness [redacted]. She said this was not true. She said they argued for about a half-hour and it did not get physical. She said she did not call 9-1-1 and said she did not know if Witness [redacted] did. Subject Barr said she did not see Witness [redacted] on the phone and did not see her make any phone calls. When asked if her [redacted] called 9-1-1, Subject Barr said no, and that he was asleep and never woke up.

> **IAB Note:** Later in this interview, Subject Barr stated that it had to have been Witness [redacted] who called 9-1-1, because neither she nor her [redacted] called.

Subject Barr acknowledged Witness [redacted] cell phone was in three pieces on the ground as reported by Ontario Police Department. She said she did not take the phone away from Witness [redacted] to prevent her from calling 9-1-1. When asked how Witness

[redacted] phone came to be on the ground in three pieces she said Witness [redacted] took it apart all the time. She said "It freezes up, she'll pull the battery, let it sit out and sometimes if she doesn't want to answer the phone, instead of turning it off, she just takes it apart and leaves it there all night. Sometimes she'll leave it for days."

Subject Barr said there was no physical violence between her and Witness [redacted]. Subject Barr was asked about the injuries to Witness [redacted] and shown pictures documented by Ontario Police Department. Subject Barr answered "No" each time she was shown the following pictures of Witness [redacted] and asked if she (Barr) caused the injuries shown in them. She also said she did not know how Witness [redacted] acquired the injuries/bruising depicted in the pictures:

- Picture of the right side of Witness [redacted]' neck showing bruising in the shape of fingers.
- Large bruise to the right shoulder area
- Bruising to the underside of the right forearm
- Small bruise to the underside of the left arm
- Four circular bruises to the upper right arm
- Puncture wounds to the left and right side of the tongue

When asked if she caused the circular bruises to Witness [redacted]' upper right arm and that they appeared to be from grabbing of the arm, Subject Barr said "No. I don't, I don't think so." She went on to explain that Witness [redacted] had a picture of hers and she was trying to take it away. She then said, "I didn't...no. You mean like grabbing? No." Subject Barr said she did not see any of these injuries/bruising before the incident occurred and would have asked Witness [redacted] about it if she had.

During their argument, Subject Barr said Witness [redacted] had grabbed ahold of an old photograph in a frame. She said the picture was from the 1940's and depicted a picture of her [redacted] in her [redacted] best friend's wedding. She said she inherited this picture from her [redacted] and Witness [redacted] knew the importance of the picture to her. Subject Barr said she tried to pull it away from her and when she did, she heard it cracking, and let go of it. She said Witness [redacted] dropped herself onto the hard tile floor hugging and squeezing the picture.

Subject Barr was shown pictures of broken pictures (glass), a window blind protruding into the residence, and a window screen laying inside on a couch (see **Exhibit D**). Subject Barr said Witness [redacted] broke the pictures, but she did not know how, nor did she see Witness [redacted] do it. Subject Barr said she was outside by herself and when she (Barr) came back inside, she saw the glass on the floor.

Subject Barr said Witness [redacted] caused the damage to the window blinds and screen. She said she told Witness [redacted] to leave and Witness [redacted] left of her own free will. Subject Barr said she locked the door, thought the argument was over, went out in the backyard, and did not see or hear Witness [redacted] force herself back inside through the window. She said she did not try to stop Witness [redacted] from coming back inside and thought when she ([redacted]) left, Witness [redacted] would go next door with one of their friends. Subject Barr said her [redacted] was not awoken during this incident and their neighbors did not call to check up on them.

Subject Barr was shown a copy of her booking photograph which depicted her right eye as being bruised and swollen shut. She said Witness [redacted] did not hit her and that the injury was caused by a sty and "pink eye." She said it had gotten worse over several days and eventually swelled shut. She said she claimed it as a Department injury and was initially given ointment, and later on, antibiotics. Subject Barr said she provided medical paperwork about her eye infection to Ontario Police at the scene.

Subject Barr said the argument lasted for approximately a half an hour. She said she does not like to argue so she would walk away and go smoke a cigarette or go into a room/garage.

Subject Barr said three or four Ontario Police showed up at her residence during this incident and was eventually told she was going to be arrested for domestic assault. When told that Officer [redacted] wrote in his report that she did not comply when advised to place her hands behind her back, Subject Barr said she did sit there for a minute because she could not believe what was happening. She guessed she waited a few seconds before complying.

> **IAB Note:** This incident where Sergeant [redacted] and Officer [redacted] contact Subject Barr to advise her she is being placed under arrest begins at 00:00 of **Track 4 (Exhibit C)** and ends with her compliance at approximately 05:15.

Subject Barr was also asked about Officer [redacted] claim that she pulled away from him, when Officer [redacted] gently grabbed her upper left arm. Subject Barr said she did not recall doing that and if she did, it was not intentional. Subject Barr said she did place her hands on her hips, when told to place her hands behind her back, and waited about ten seconds before placing her hands behind her back. She said this was because she could not believe what was happening to her, and added she was not "resisting or trying not to do it."

Subject Barr said at the police car she did tell Ontario Police Depart to go "15" with Witness [redacted], but did not tell them why at the time. She said she wanted Witness [redacted] arrested for breaking her picture (of her mother) and not for any physical violence from Witness [redacted].

Subject Barr said she did refuse to allow Ontario Police to take pictures of injuries they alleged she had. She said because of the way her eye was, Ontario Police did not believe her (story), and were making it seem like she had hit and beat up Witness [redacted]. Subject Barr said she did not want Ontario Police "making it look like they (we) had had this boxing match that did not happen." She said Ontario Police advised her she would be add charged if she did not take pictures and stated she did not feel she was required to take pictures.

Subject Barr was asked why not, if it was pink eye and she had documentation to show this, take pictures to show that she had no other injuries. Subject Barr said she did not like taking pictures "to begin with" and said she did not "do" Facebook or let anybody take pictures of her. She said she was under the impression she was being made the aggressor and did not want Ontario PD twisting things. She said she was not trying to be uncooperative and in hindsight she wished she had let Ontario PD take the pictures. Subject Barr said she was not refusing in order to protect Witness [redacted].

Subject Barr said there has not been an incident in the past where she and Witness [redacted] had a physical altercation, but said they have had verbal arguments. Subject Barr said Witness [redacted] is the "jealous type" and because of things that have happened in her life, Subject Barr said her (Barr) doctor believes Witness [redacted] has a PTSD (Post Traumatic Stress Syndrome) "kind of thing." She said Witness [redacted] was not in the military.

Subject Barr was played the first 15:32 of an audio provided by the Ontario Police Department (see **Exhibit C, Audio 1, track 1**). This was of Subject Barr's interaction, as recorded by Ontario Police Department, while at the Ontario Police station.

Subject Barr said she recollected her recorded conversation and was asked if she believed she was being uncooperative with the Ontario Police Department. Subject Barr said she was upset and did not want to take pictures, and did not want Ontario PD trying to "snowball" her. When asked what she meant by "snowball," she explained Ontario PD trying to make it look like she and Witness [redacted] were in a "huge physical fight." Subject Barr said she did not have injuries that would show a physical altercation occurred and had put her arms out for Ontario PD to look at. She said they could look all they wanted to, but she just did not want to take pictures. Subject Barr said she spoke to Captain Nunez (CRDF Captain) while at Ontario PD station and signed some paperwork.

Subject Barr was asked if she was intoxicated or just full of emotion. Subject Barr said she thought both and said she was upset and had been drinking. She said she was sure it played a part in it and was no "angel," but was not trying to be uncooperative. She said she has never been in a situation like that.

Subject Barr was asked if Witness [redacted] had tried to put marks on her ([redacted]) neck in the past. She said that Witness [redacted] has hurt herself in the past by "cutting," but had not done that in a long time. She said Witness [redacted] has never blamed her

(Subject Barr) for injuries Witness [redacted] has self-inflicted in the past and that it was Witness [redacted] "personal thing." She said she did not know if Witness [redacted] had ever self-inflicted the quantity of injuries all at once, as showed to her in the photographs (see **Exhibit D**).

Subject Barr was asked if there was an emergency at her house that night that, where 9-1-1 should have been called. Subject Barr said no. She said after being shown the pictures she agreed vandalism occurred at her residence, but it warranted no assistance from the Ontario Police Department. She said they (Witness [redacted]/Subject Barr) were not hitting each other, "so no."

Subject Barr said her response to Sergeant [redacted] about "delaying her life" was not professional and she could have handled it better She said, "Absolutely, I could have handled it differently," when asked if any of her actions in this incident caused undo embarrassment or damaged the reputation the Sheriff's Department.

Subject Barr was asked about the tenant of the Core Values, *"Wisdom to apply common sense in all I do,"* and if she considered this during her argument with Witness [redacted]. Subject Barr said yes.





County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

September 4, 2013



Sergeant Linda Barr, #[redacted]

Dear Sergeant Barr:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Sergeant, Item No. 2717A, with this Department, effective the close of business September 25, 2013.

An investigation under IAB File Number IV2316815, conducted by Internal Affairs Bureau has established the following:

1. That in violation of Manual of Policy and Procedures Sections, 3-01/030.05, General Behavior; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders [as it pertains to 273.5(a) P.C., Inflict Corporal Injury (Domestic Assault), and/or 415 P.C., Disturbing the Peace]; and/or 3-01/030.16, Family Violence; and/or 3-01/000.10, Professional Conduct, on or about July 11, 2012, while off-duty, you engaged in an act of domestic violence when you and [redacted] battered each other, causing injury to each other. You were placed under arrest by officers from the Ontario Police Department and charged with 273.5(a) P.C., Inflict Corporal Injury (Domestic Assault). You pled nolo contendere to a charge of 415 P.C., Disturbing the Peace, on February 6, 2013, in Division R20 of the San Bernardino Superior Court. You were ordered to pay fines and restitution and attend anger management courses. You were placed on twelve months probation and ordered to serve one day in jail. Your actions did not conform to the Department's Core Values, as you failed to act with integrity and treat [redacted] with dignity. Your conduct caused embarrassment to the Department and brought discredit upon yourself and/or the Department.

2. That in violation of Manual of Policy and Procedures Sections, 3-01/000.10, Professional Conduct; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders [as it pertains to 148(a) P.C., Delaying/Resisting a Police Officer]; and/or 3-01/040.76, Obstructing an Investigation, on or about July 11, 2011, you failed to cooperate with personnel from the Ontario Police Department during a criminal investigation regarding a possible domestic violence incident and subsequent arrest when you refused to have your face, arms, and legs photographed for evidentiary purposes, and/or refused to place your hands behind your back when ordered. Your conduct did not conform to the Department's Core Values, as you failed to act with integrity and treat personnel from the Ontario Police Department with dignity. Your conduct caused embarrassment to the Department as evidenced by, but not limited to:

   a. failing to comply with Ontario Police Department Officer [redacted] request for you to place your hands behind your back, and/or pulling away from the officer when he attempted to grasp your arms; and/or

   b. admitting you did wait a few minutes before complying with Ontario Police Department Officer [redacted] directions when he attempted to arrest you; and/or

   c. stating to Ontario Police Department Officer [redacted] that you would not do anything until you made a telephone call, and/or words to that effect; and/or

   d. stating to Sergeant [redacted] of the Ontario Police Department, "Oh, well, you are delaying my life, putting me here when I shouldn't be here;" and/or

   e. admitting that your response to Sergeant [redacted] that they were delaying your life was unprofessional and could have been handled differently, and/or words to that effect; and/or

   f. stating, "No," when requested to submit to a photograph of your injuries for evidentiary value; and/or

   g. admitting that you refused to have your photograph taken; and/or

h. stating, "Yes," when Sergeant [redacted] asked if you refused to be photographed; and/or

i. being additionally charged with Delaying/Resisting a Police Officer pursuant to 148(a) P.C. when you were booked by personnel from the Ontario Police Department; and/or

j. pleading nolo contendere to a charge of 415 P.C., Disturbing the Peace, on February 6, 2013, in Division R20 of the San Bernardino Superior Court and being ordered to pay fines and restitution, and attend anger management courses. You were placed on twelve months probation and ordered to serve one day in jail.

3. That in violation of Manual of Policy and Procedures Section, 3-01/040.75, Failure to Make Statements and or Making False Statements During Departmental Internal Investigations, on or about July 29, 2013, you failed to make complete, and/or truthful statements, and/or made false statements during an internal interview as evidenced by, but not limited to:

a. denying you were involved in a physical altercation with [redacted] and/or

b. stating that you did not know how [redacted] sustained injuries to her body as documented in photographs by personnel from the Ontario Police Department; and/or

c. denying that you assaulted [redacted] and/or

d. denying that you were assaulted by [redacted]

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief David Fender, on September 25, 2013, at 0930 hours, in his office, which is located at 450 Bauchet Street, Room E-826, Los Angeles, California 90012. If you are unable to

appear at the scheduled time and wish to schedule some other time prior to September 25, 2013, for your oral response, please call Chief Fender's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Fender's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Fender's office by no later than September 25, 2013.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Alicia Ault, Captain
Internal Affairs Bureau

AEA:CDR:cj

c: Advocacy Unit
Employee Relations Unit
David L. Fender, Chief, Custody Division – Specialized Programs
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2316815)



CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

June 8, 2016

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of **LINDA BARR** for a hearing on her **discharge**, effective November 14, 2013, from the position of Sergeant, Sheriff,* **Case No. 13-538.**

The Civil Service Commission, at its meeting held on June 1, 2016 approved findings in the above-entitled case. The petitioner's objections were overruled. Commissioners Hernandez and Nightingale dissented.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Lawrence D. Crocker
Executive Director

Enclosure

c: Linda Barr
Richard Shinee
Nohemi Gutierrez-Ferguson
David Beauvais

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

In the matter of the ***discharge****, effective November 14, 2013, from the position of Sergeant, Sheriff's Department, of* **LINDA BARR** **(Case No. 13-538)**	ORDER OF THE CIVIL SERVICE COMMISSION

On June 1, 2016, the Civil Service Commission of the County of Los Angeles overruled the Petitioner's objections. The Commission adopted as its final decision, the findings and recommendation of the Hearing Officer, David Beauvais, to sustain the Department. Commissioners Hernandez and Nightingale dissented.

Dated this 8th day of June, 2016.

Z. GREG KAHWAJIAN, President

Dissented — DENNIS F. HERNANDEZ, Member

Dissented — NAOMI NIGHTINGALE, Member

STEVEN AFRIAT, Member

JOHN DONNER, Member



LOS ANGELES COUNTY
CIVIL SERVICE COMMISSION

In the Matter of the Appeal of

Linda Barr, Appellant

And

Los Angeles County
Sheriff's Department
Respondent

CASE #: 13-538

FINDING OF FACT;
CONCLUSIONS OF LAW,
AND RECOMMENDED DECISION

APPEARANCES:

For the Appellant: Audra Call, Law Office of Green and Shinee

For the Respondent: Noami Gutirrez-Ferguson, Gutirrez, Preciado & House

BEFORE: David P. Beauvais, Hearing Officer

INTRODUCTION

The above captioned matter was heard by David P. Beauvais, Hearing Officer for the Los Angeles County Civil Service Commission. The hearing was conducted on August 27, 2014, February 11 and 13, March 30, and July 1, 2015. The record was kept open until July 31, 2015 to allow an additional submission by the Department. Following the hearing, the parties submitted written argument which was received by the Hearing Officer on August 26, 2015.

ISSUE

On June 10, 2014, the Commission defined the issues in this matter as:

1. Are the allegations contained in the Department's letter of November 15, 2013, true?
2. If any or all are true, is the discipline appropriate?

Additionally, the following issues were certified by the Commission during the course of the hearing:

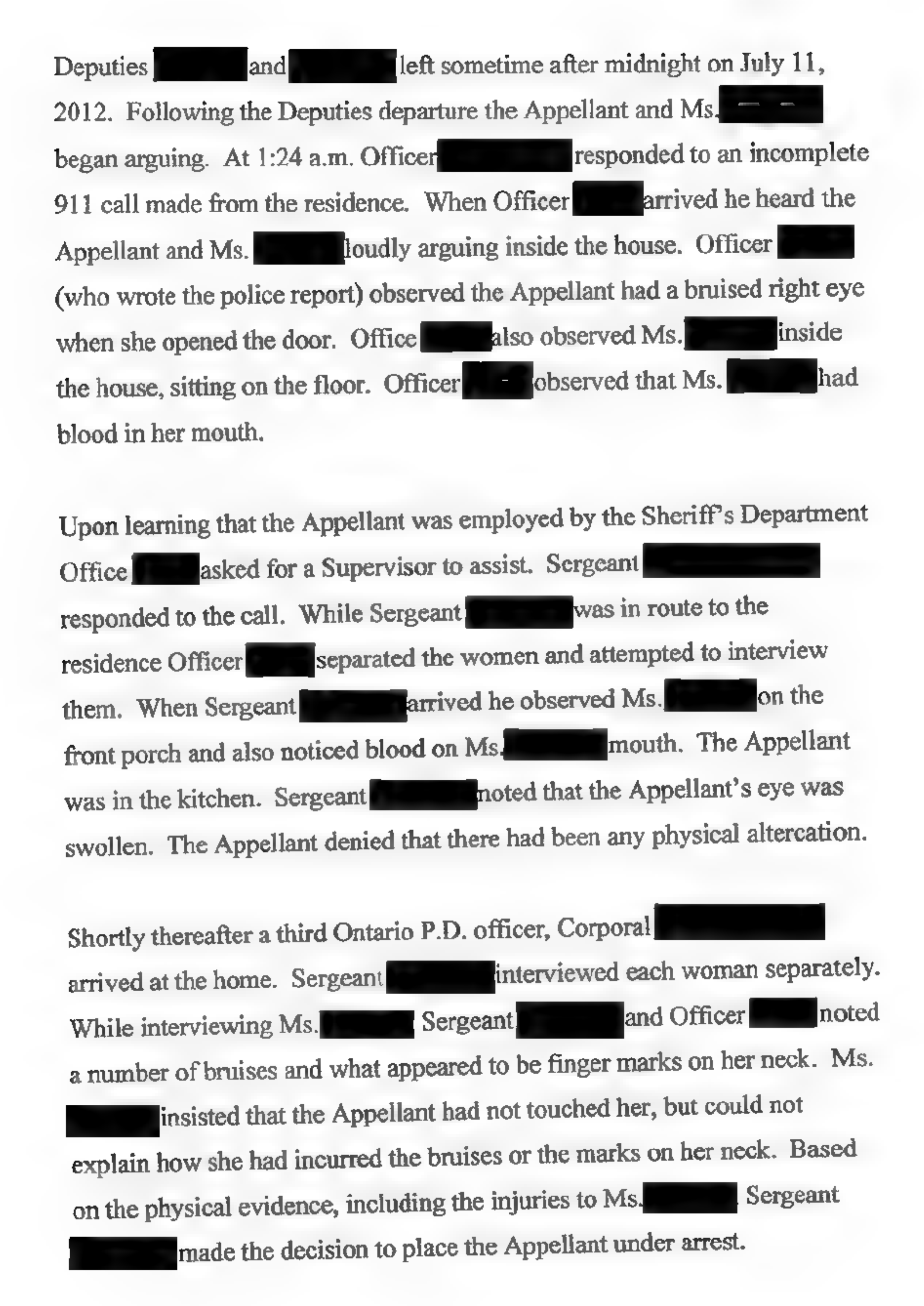
1. Did the Department violate Appellate Linda Barr's Constitutional right to due process by failing to provide Appellant with a copy of the charges and materials upon which action was based, and by failing to provide Appellant an opportunity to respond to the decision-maker before he made the final determination regarding discharge?

2. If the Department did violate Appellant's right to due process, what is the appropriate remedy?

BACKGROUND

Linda Barr was employed by the Los Angeles County Sheriff's Department in August 1996. At the time of her discharge she held the rank of Sergeant and worked at the Century Regional Detention Facility (CRDF).

On July 10, 2012, the Appellant went out with several other Sheriff's Department employees and her [redacted], [redacted] The women spent several hours at a restaurant drinking beer and eating. Late in the evening the Appellant, Ms. [redacted] and Deputies [redacted] and [redacted] drove to the Barr/[redacted] residence in Ontario.



Deputies [redacted] and [redacted] left sometime after midnight on July 11, 2012. Following the Deputies departure the Appellant and Ms. [redacted] began arguing. At 1:24 a.m. Officer [redacted] responded to an incomplete 911 call made from the residence. When Officer [redacted] arrived he heard the Appellant and Ms. [redacted] loudly arguing inside the house. Officer [redacted] (who wrote the police report) observed the Appellant had a bruised right eye when she opened the door. Office [redacted] also observed Ms. [redacted] inside the house, sitting on the floor. Officer [redacted] observed that Ms. [redacted] had blood in her mouth.

Upon learning that the Appellant was employed by the Sheriff's Department Office [redacted] asked for a Supervisor to assist. Sergeant [redacted] responded to the call. While Sergeant [redacted] was in route to the residence Officer [redacted] separated the women and attempted to interview them. When Sergeant [redacted] arrived he observed Ms. [redacted] on the front porch and also noticed blood on Ms. [redacted] mouth. The Appellant was in the kitchen. Sergeant [redacted] noted that the Appellant's eye was swollen. The Appellant denied that there had been any physical altercation.

Shortly thereafter a third Ontario P.D. officer, Corporal [redacted] arrived at the home. Sergeant [redacted] interviewed each woman separately. While interviewing Ms. [redacted] Sergeant [redacted] and Officer [redacted] noted a number of bruises and what appeared to be finger marks on her neck. Ms. [redacted] insisted that the Appellant had not touched her, but could not explain how she had incurred the bruises or the marks on her neck. Based on the physical evidence, including the injuries to Ms. [redacted] Sergeant [redacted] made the decision to place the Appellant under arrest.

Corporal [redacted] advised the Appellant that she was under arrest. After some delay in complying with Corporal [redacted] instructions the Appellant was handcuffed and transported to the Ontario Police Station for booking and processing. During the booking procedure the Appellant refused to be photographed, even though advised to do so by her Captain, and despite the fact she was told she would incur an additional charge of delaying/resisting a police officer.

The Appellant was placed on administrative leave for a short period, but returned to work while an investigation was conducted. On September 4, 2013, a Notice of Intent to Discharge was issued to the Appellant. A Skelly Hearing was conducted on September 25, 2013, leading the Decision Maker, Chief David Fender, to ask for further investigation. [redacted] was interviewed and the Appellant was re-interviewed. A second Skelly hearing was not conducted. A Notice of Discharge was issued to the Appellant on November 15, 2013. The Appellant timely appealed the discharge to the Los Angeles County Civil Service Commission.

TESTIMONY OF WITNESSES

The Department presented eight witnesses in their case-in-chief. The Appellant presented three witnesses and testified on her own behalf.

Officer [redacted] (Ontario P.D.)

Officer [redacted] was called primarily to authenticate his police report (Dept. ex. 11).

Corporal [redacted] (Ontario P.D.)

Corporal [redacted] testified that he is currently with the Ontario P.D. SWAT Team and has previous patrol experience. Corporal [redacted] stated that he responded to a call for assistance and was the third officer to arrive at the Barr/[redacted] residence. Corporal [redacted] testified that when he arrived at the residence he observed [redacted] standing in the doorway of the residence with Sergeant [redacted] and Officer [redacted] Corporal [redacted] stated that he noticed Ms. [redacted] appeared to have injuries to her face and neck. Corporal [redacted] was shown a series of pictures of Ms. [redacted] (Dept. ex. 14). Corporal [redacted] testified that he observed the injuries depicted in the pictures on the night of July 11, 2012.

Corporal [redacted] stated that Sergeant [redacted] and Officer [redacted] had further conversation with Ms. [redacted] and then decided to place the Appellant under arrest. Corporal [redacted] testified that he told the Appellant she was under arrest, and placed his hand on her arm, but the Appellant pulled her arm away. Corporal [redacted] stated the Appellant did stand up, but instead of putting her hands behind her back as instructed, she placed her hands on her hips. Corporal [redacted] said the Appellant eventually placed her hands behind her back, she was handcuffed, and then was transported to the Ontario Police Department without further incident. Corporal [redacted] stated that during the booking process the Appellant refused to let the department take pictures of her arms or legs.

On cross-examination Corporal [redacted] testified that when arrived at the home the front porch light was on and he could clearly see both Ontario P.D.

officers and Ms. [redacted] He was unaware that Officer [redacted] initially was going to make a non-crime report. Corporal [redacted] testified that he observed broken pictures and glass on the hallway floor. Corporal [redacted] testified the Appellant said the arrest was going to "ruin her job". Corporal [redacted] said there was no further delay once the Appellant complied in putting her hands behind her back and was handcuffed. Corporal [redacted] initially thought the injury to the Appellant's eye was the result of the blow, but she showed him her medical documentation, which raised some doubt.

Sergeant [redacted] (Ontario P.D.)

Sergeant [redacted] has been with the Ontario P.D. for nineteen (19) years. On July 11, 2012 he was in charge of patrol operations for the graveyard shift. Sergeant [redacted] testified he has made 75 to 100 domestic violence arrests in his career. Sergeant [redacted] testified that he responded to Officer [redacted] request for assistance, and understood that there was a peace officer involved in the incident. He stated that there is a protocol invoked when a peace officer is involved in a call.

Sergeant [redacted] testified that he noticed Ms. [redacted] was bleeding from the mouth upon his arrival, but she denied any physical contact with the Appellant. He did not notice the bruises on her neck when he arrived at the home. Sergeant [redacted] said he also noted the Appellant's bruised eye, and reviewed the paperwork showing she had contacted an eye condition at work. Sergeant [redacted] testified that both women had alcohol on their breath, and that he thought both showed indications that they had been in a physical altercation.

Sergeant [redacted] testified that the Appellant wanted Ms. [redacted] out of the house and they took her into the bedroom so she could pack a few items. As they talked to Ms. [redacted] in the bedroom they could see the marks on her neck and arms begin to emerge. Sergeant [redacted] testified that he made the decision to arrest the Appellant because she insisted Ms. [redacted] had not hit her in the eye and the majority of the injuries appeared to be on Ms. [redacted] Sergeant [redacted] said he believed he had probable cause to place the Appellant under arrest.

Sergeant [redacted] estified that once the Appellant was told she was under arrest she did not immediately comply with the instruction to place her hands behind her back. Once back at the station, he was advised by Corporal [redacted] that the Appellant was not being cooperative during the booking process and did not want pictures to be taken. Sergeant [redacted] said he spoke to the Appellant and warned her that she would be subject to additional charges if she did not cooperate, but the Appellant still refused to be photographed.

Under cross-examination, Sergeant [redacted] stated he was not interviewed by I.A.B. He testified that when he reviewed the paperwork the Appellant gave him regarding her eye infection he thought it could be true. He said he observed Ms. [redacted] cell phone in pieces on the living room floor, but the phone did not appear to be broken. Sergeant [redacted] testified that the bruises on Ms. [redacted] neck appeared to be fingermarks. Ms. [redacted] was not aware of the bruises until they showed her in a mirror. Sergeant

[redacted] testified that the broken glass in the pictures and the broken window screen were indications of violence.

Deputy [redacted]

Deputy [redacted] has been employed by the Department for ten (10) years. Deputy [redacted] testified that she went out to dinner with the Appellant, Ms. [redacted] and two other Department officers. Deputy [redacted] testified that she did not notice any scratches or bruises on Ms. [redacted] at dinner. Deputy [redacted] testified that the Appellants eye was puffy and bruised at dinner, but not as bad as depicted in the picture shown to her. Deputy [redacted] testified that she had never met Ms. [redacted] before the evening of July 10, 2013. Deputy [redacted] said they drove over to the Barr/[redacted] residence and stayed for a while. She said the interaction between the Appellant and Ms. [redacted] appeared to be normal.

Under cross-examination Deputy [redacted] stated that they were joking about the Appellant's eye condition and she said it looked like "someone had punched her in the eye". Deputy [redacted] testified that the Appellant was her immediate superior and was a good Sergeant; she looked out for her subordinates. Deputy [redacted] said she had never seen the Appellant act violently in any circumstances.

Deputy [redacted]

Deputy [redacted] has been employed by the Department for fifteen (15) years. She has known the Appellant for about four (4) years. Deputy

[redacted] testified that she met the Appellant, Ms. [redacted] and the other Sheriff's Department employees on July 10, 2013. She did not notice any scratches or bruises on Ms. [redacted] and is certain she would have noticed them as depicted in the Ontario P.D. pictures. Deputy [redacted] also remembered that the Appellant's eye was swollen while at the restaurant. When shown the Ontario P.D. picture Deputy [redacted] testified that the eye was more red and swollen than she remembered. She testified that she did not remember any cut or scratch below the Appellant's eye. Deputy [redacted] stated that she had never met Ms. [redacted] before and that her interaction with the Appellant seemed normal.

On cross-examination Deputy [redacted] testified that she remembered everyone joking about the Appellant's eye at the restaurant. Deputy [redacted] testified that she worked with the Appellant for a period of three (3) to four (4) years. During that time she never saw the Appellant lose her temper or become violent.

Sergeant [redacted]

Sergeant [redacted] has been with the Department twenty-five (25) years. Sergeant [redacted] testified that the Appellant had an irritated eye and that she documented the condition on a form 92 on July 9, 2013. She testified that when she observed the eye it was slightly red, runny and itchy looking. Sergeant [redacted] was shown the Ontario P.D. picture of the Appellant and stated that the eye looked much worse than it did when she wrote the report on July 9, 2013. She stated that it looked like an injury not an infection. Sergeant [redacted] testified that she did not see the Appellant

between July 9 and July 11, 2013, so she was not able to observe if the condition worsened in that time. Sergeant [redacted] testified that she did not observe any other cuts or scratches on the Appellant's face on July 9, 2013.

Sergeant Patrick Manion (IAB)

Sergeant Manion has been with the Department for twenty-five (25) years. He has been assigned to I.A.B. for about two and a half years. Sergeant Manion testified that he did not know the Appellant before the investigation.

A number of key documents were entered through Sergeant Manion. He testified regarding the process of his investigation. Sergeant Manion testified that he was asked to re-open his investigation (Dept. ex. 20) following the Skelly hearing. Sergeant Manion said he interviewed Ms. [redacted] who previously had declined to be interviewed, and re-interviewed the Appellant. Sergeant Manion testified that during the interview Ms. [redacted] claimed the injuries to her neck were caused by a picture frame. The Appellant was re-interviewed and brought the picture frame (which contained a picture of her mother) with her. Sergeant Manion took several pictures of the frame (Dept. ex. 32).

Under cross-examination Sergeant Manion testified that the Investigative Summary is just that, a summary, and that Investigator notes can be used to point out contradictions or factual discrepancies. Sergeant Manion testified that the Appellant never admitted causing any injury to Ms. [redacted]

Sergeant Manion testified Ms. [redacted] told him she injured her nose while climbing through the window to get back in the house, hitting her face either on the coffee table or the floor. Ms. [redacted] also told him that she scratched her arms on glass from the broken picture frames in the hallway. Sergeant Manion said that Ms. [redacted] demonstrated how she hugged the picture frame, and how it caused the bruises on her neck. Ms. [redacted] also told him that she had given Ms. Call two copies of the letter she submitted, one for him and one for Ms. Call. Sergeant [redacted] admitted that Sergeant [redacted] told him that she had observed a small cut below the Appellant's eye while at the restaurant.

Chief David Fender

Chief Fender has been with the Department for forty (40) years, and was the decision maker in this case. Chief Fender testified that he has conducted more than fifty Skelly hearings during his career. Chief Fender testified that he became aware of the case when the Appellant was relieved of duty following her arrest. Chief Fender testified that he reviewed the Ontario P.D. reports and photos, the transcript of interviews and the disposition sheet prior to the Skelly meeting. Chief Fender testified that the Ontario P.D. pictures depicted two women who had been in a physical altercation. Additionally, Chief Fender said there were other indications of violence, such as the broken glass in the picture frames and the bent screen in living room. Chief Fender testified that he had a lot of experience as a responding officer, and that the pictures he saw were consistent with a scenario of domestic violence.

Chief Fender emphasized that Ms. [redacted] injuries were consistent with a physical altercation, and that she had multiple explanations for the injuries when interviewed by the Ontario P.D. Officers. Chief Fender found her explanations not credible. Chief Fender also found the Appellant's claim that Ms. [redacted] injuries were self-inflicted to also lack credibility. Chief Fender testified that discharge was appropriate in this case given the incident and the Appellant's failure to cooperate at the time of arrest and during the booking process.

Under cross-examination Chief Fender stated that Captain Nunez relieved the Appellant of duty the night of the incident, but was aware that she returned to work at some point. Chief Fender stated he was aware that the Ontario P.D. officers were not interviewed as part of the investigation. Chief Fender testified that he asked for the investigation to be re-opened after he received Ms. [redacted] letter at the Skelly hearing. He stated that Ms. [redacted] also appeared and testified at the Skelly hearing. Chief Fender testified that after reviewing Ms. [redacted] interview and the Appellant's re-interview, he did not believe that any new evidence had been uncovered.

Chief Fender testified that he firmly believed a physical altercation had taken place. He also stated that he believed the Appellant's eye was the result of a blow and not due to "pink eye". Chief Fender concluded that the picture frame could not have caused the bruises on Ms. [redacted] neck as she claimed. Chief Fender also testified that he did not believe Ms. [redacted] injuries were due to contact with the coffee table or self-inflicted. Chief Fender stated that he was aware that the picture was an issue between the Appellant and Ms. [redacted] the night of the incident. Chief Fender testified

that charge number two was due to the Appellant's failure to cooperate at the scene and her refusal to allow pictures to be taken during the booking process.

Sergeant [redacted]

Sergeant [redacted] has been with the Department for sixteen (16) years. Sergeant [redacted] testified that she has worked with the Appellant off and on throughout her career. Sergeant [redacted] testified that she joined the Appellant, Ms. [redacted] and Deputies [redacted] and [redacted] at the restaurant on July 10, 2013. She could not recall what time she arrived, but stated it was still light outside. Sergeant [redacted] said she stayed an hour or two at the restaurant, but did not accompany the rest of the party back to the Barr/[redacted] home. Sergeant [redacted] recalled the Appellant was suffering from and eye infection and was off work. Sergeant [redacted] testified that she recalled seeing a cut below the Appellant's eye at the restaurant, and that it was the same cut depicted in the picture of the Appellant taken several hours later by the Ontario P.D.

Detective Deborah Romero

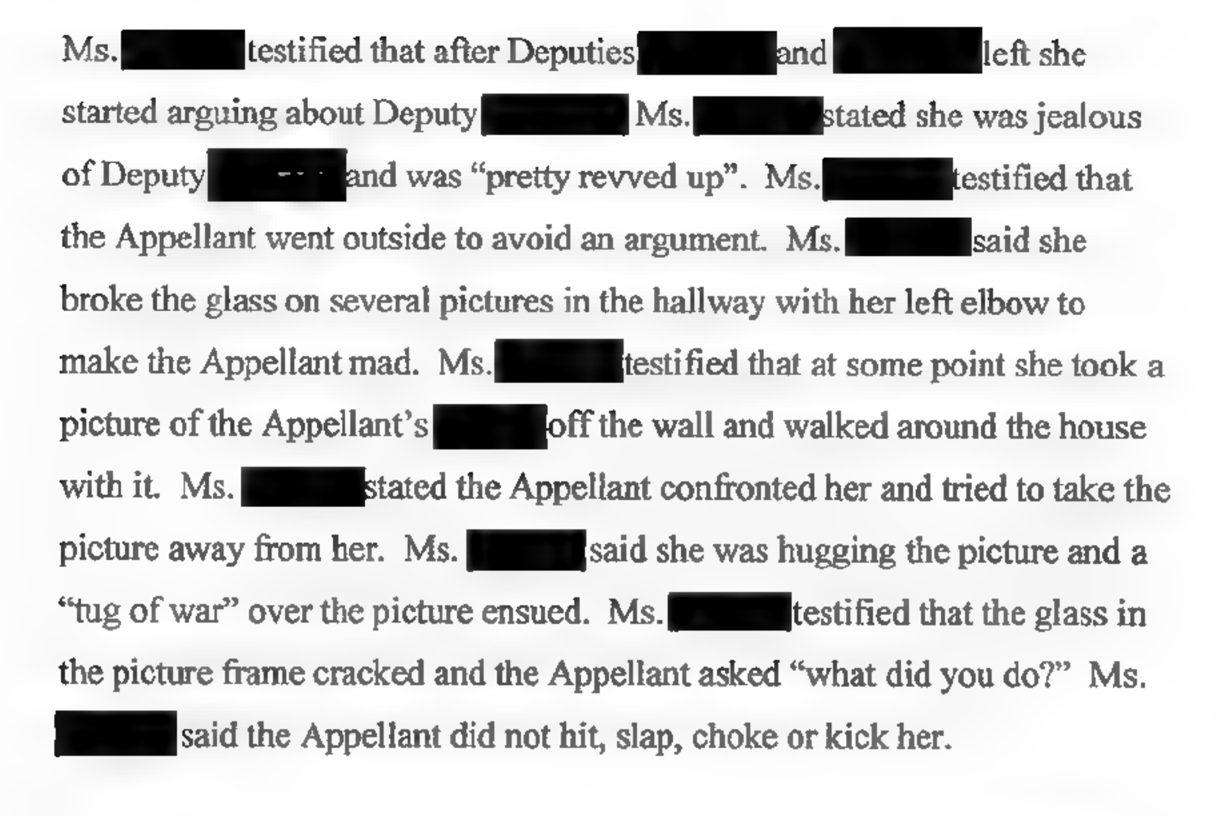
Detective Romero has been employed by the Department for twenty (20) years. Detective Romero is currently assigned to the Criminal Investigation Unit. Detective Romero has known the Appellant since she was hired and worked with her in a custody environment. Detective Romero described the Appellant as "always at ease", "firm and to the point" and someone who always dealt with stressful situations appropriately. Detective Romero

testified that she has known the Appellant and Ms. [redacted] during the course of their relationship and has never seen any violent behavior from either of them. Detective Romero testified that she was in an abusive relationship herself, and that the Appellant intervened and advised her to get out of the relationship. Detective Romero testified that although she knew the Appellant had been discharged, she was not aware of the specific charges.

Under cross-examination Detective Romero stated that police officers are required to cooperate with other police agencies if confronted or arrested. Detective Romero agreed that every case of domestic violence is different. She testified that when she responded to domestic violence calls she looked for signs of violence such as physical injuries, broken furniture, weapons, or other signs of a struggle. Detective Romero said she had seen instances where a dependent spouse denied abuse.


[redacted]

Ms. [redacted] testified that she lives with the Appellant in a domestic partnership and that they have an [redacted] who is now [redacted] She testified that their [redacted] is actually the Appellant's [redacted] and that he was [redacted] when he was [redacted] Ms. [redacted] testified that they went out with some friends to a Mexican restaurant on July 10, 2013. She said they arrived mid-afternoon and stayed at the restaurant until about 10:00 or 11:00 p.m. Ms. [redacted] testified Deputies [redacted] and [redacted] returned with them to their home and they all had a couple more drinks.



Ms. [redacted] testified that after Deputies [redacted] and [redacted] left she started arguing about Deputy [redacted] Ms. [redacted] stated she was jealous of Deputy [redacted] and was "pretty revved up". Ms. [redacted] testified that the Appellant went outside to avoid an argument. Ms. [redacted] said she broke the glass on several pictures in the hallway with her left elbow to make the Appellant mad. Ms. [redacted] testified that at some point she took a picture of the Appellant's [redacted] off the wall and walked around the house with it. Ms. [redacted] stated the Appellant confronted her and tried to take the picture away from her. Ms. [redacted] said she was hugging the picture and a "tug of war" over the picture ensued. Ms. [redacted] testified that the glass in the picture frame cracked and the Appellant asked "what did you do?" Ms. [redacted] said the Appellant did not hit, slap, choke or kick her.

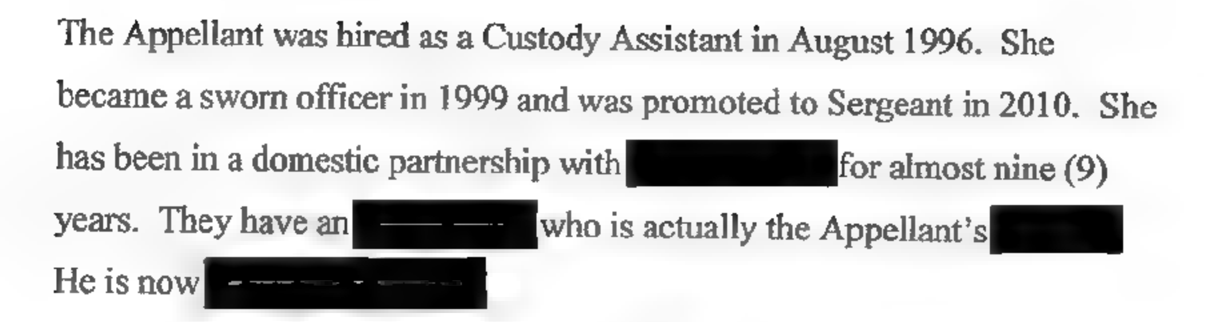
Ms. [redacted] testified that the Appellant told her to get out of the house, and she went out to the front porch. Ms. [redacted] said the Appellant locked the door, so she took a screen off a front window and re-entered the house though the window. Ms. [redacted] testified that she rolled on to the couch under the window and then hit the coffee table in front of the couch. Ms. [redacted] testified she then called 911 through the fax machine located in one of the bedrooms. She testified that she did not speak to a dispatcher, but an Ontario P.D. officer showed up anyway.

Ms. [redacted] testified that Officer [redacted] "seemed nice" but the second officer to arrive (Sergeant [redacted] seemed "pissed off" and trying to get her to admit that the Appellant had hit her. Ms. [redacted] said that made her angry. She said she was trying to protect the Appellant. Ms. [redacted] testified that Sergeant [redacted] took her into the bathroom and showed her the bruises on

her neck. Ms. [redacted] said she started crying at that point because she didn't like what she saw. Ms. [redacted] continued to insist that her injuries were self-inflicted and that the Appellant had not assaulted her. Ms. [redacted] testified that the Ontario P.D. took a number of pictures after the Appellant's arrest and returned the next morning to take additional pictures.
Ms. [redacted] testified that Sergeant Manion contacted her but she declined to be interviewed. Ms. [redacted] said she wrote a letter regarding the incident to Sergeant Manion because she did not want to be "non-supportive". Ms. [redacted] testified that she was not concealing domestic violence to help the Appellant get her job back.

Under cross-examination Ms. [redacted] testified that the Appellant owns the house and she thought the Appellant would gain custody of their son if they broke up. Ms. [redacted] stated that she made two copies of the letter, one addressed to Sergeant Manion, the other to Ms. Call. Ms. [redacted] testified that her initial refusal to be interviewed was based in part on the advice of Ms. Call. Ms. [redacted] testified that she consulted with Ms. Call before preparing the letter, but not with the Appellant. Ms. [redacted] admitted that she did not describe the struggle over the picture in her letter. Ms. [redacted] also admitted that she never told the Ontario P.D. that the marks on her neck were caused by the picture frame. When questioned about the bruises and scratches on her arms and face, Ms. [redacted] gave various explanations for them.

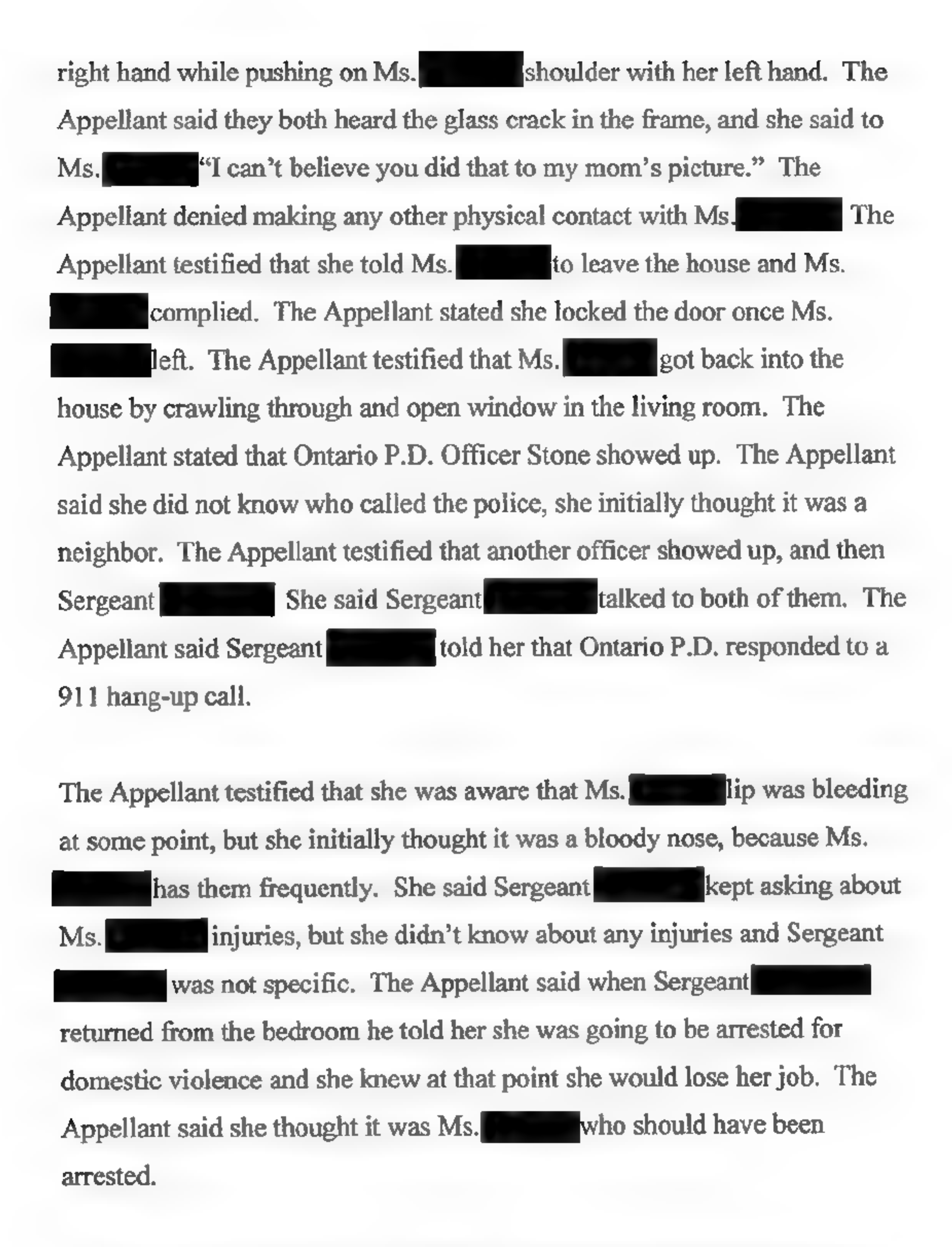
Linda Barr (Appellant)



The Appellant was hired as a Custody Assistant in August 1996. She became a sworn officer in 1999 and was promoted to Sergeant in 2010. She has been in a domestic partnership with [redacted] for almost nine (9) years. They have an [redacted] who is actually the Appellant's [redacted] He is now [redacted]

The Appellant testified that she and Ms. [redacted] went to a Mexican restaurant for drinks and appetizers with friends from work on July 10, 2013. The Appellant said she was not sure if she was going because of her eye, which was red and swollen due to an infection. The Appellant testified that Deputy [redacted] joked that it looked like someone had hit her in the eye. The Appellant testified that she, [redacted] and Deputies [redacted] and [redacted] drove to their home between 10:00 and 11:00 p.m. The Appellant testified their guests stayed for a short time and then left.

The Appellant testified she got into her pajamas and went to the back yard to smoke a cigarette. When she came back in the house she observed glass on hallway floor. The Appellant testified that Ms. [redacted] tried to start an argument because she was jealous of Ms. [redacted] The Appellant said the argument was ridiculous because Ms. [redacted] knows how long it takes her to get to and from work, and she always calls once she arrives at work and when she leaves. The Appellant said she went outside again and when she came back in Ms. [redacted] had a framed picture of her mother. The Appellant said it is the only picture she has of her mother, who died in 1982. The Appellant demanded the picture back, but Ms. [redacted] had the picture in a "bear hug" and would not comply. The Appellant testified that she tried to take the picture away. The Appellant grabbed the picture frame with her



right hand while pushing on Ms. [redacted] shoulder with her left hand. The Appellant said they both heard the glass crack in the frame, and she said to Ms. [redacted] "I can't believe you did that to my mom's picture." The Appellant denied making any other physical contact with Ms. [redacted] The Appellant testified that she told Ms. [redacted] to leave the house and Ms. [redacted] complied. The Appellant stated she locked the door once Ms. [redacted] left. The Appellant testified that Ms. [redacted] got back into the house by crawling through and open window in the living room. The Appellant stated that Ontario P.D. Officer Stone showed up. The Appellant said she did not know who called the police, she initially thought it was a neighbor. The Appellant testified that another officer showed up, and then Sergeant [redacted] She said Sergeant [redacted] talked to both of them. The Appellant said Sergeant [redacted] told her that Ontario P.D. responded to a 911 hang-up call.

The Appellant testified that she was aware that Ms. [redacted] lip was bleeding at some point, but she initially thought it was a bloody nose, because Ms. [redacted] has them frequently. She said Sergeant [redacted] kept asking about Ms. [redacted] injuries, but she didn't know about any injuries and Sergeant [redacted] was not specific. The Appellant said when Sergeant [redacted] returned from the bedroom he told her she was going to be arrested for domestic violence and she knew at that point she would lose her job. The Appellant said she thought it was Ms. [redacted] who should have been arrested.

The Appellant was shown the pictures of the picture frame and admitted there were some jagged and rough edges to the frame. The Appellant

insisted that she could not have scratched Ms. [redacted] because she always keeps her nails very short. The Appellant insisted that she did not resist arrest, she said she complied with the instruction to place her hands behind her back after about ten (10) seconds. She also said she did not intentionally pull away from Corporal [redacted] The Appellant admitted she refused to have pictures taken of her arms and legs. The Appellant said she was relieved of duty by her Captain, but returned to work in February 2014.

The Appellant testified that Ms. [redacted] gave her two sealed letters, one addressed to Sergeant Manion, and one to Ms. Call. Ms. [redacted] told her to give the letters to Ms. Call and she (Call) could decide whether to give the other copy to Sergeant Manion. The Appellant testified that at the end of the Skelly hearing Chief Fender told her the investigation would be re-opened and Ms. [redacted] would be interviewed. The Appellant said Chief Fender indicated she might be re-interviewed as well. The Appellant stated that after the interviews a second Skelly hearing was not conducted, and that she never received a copy of the transcript of the interviews.

Under cross-examination the Appellant said she understood that committing domestic violence and resisting arrest could be grounds for discharge. The Appellant also admitted that Ms. [redacted] had called 911 once before during an argument. The Appellant said that Ms. [redacted] was jealous of Deputy [redacted] and accused her of having an affair with Deputy [redacted] The Appellant testified that the glass in her mother's picture shattered during their struggle over the picture. Regarding her arrest, the Appellant said she "flinched when Corporal [redacted] grabbed her arm, and moved her arm away. The Appellant admitted Corporal [redacted] had to instruct her twice to

put her hands behind her back before she complied. The Appellant also admitted she did not cooperate with the Ontario P.D. when she refused to let them take pictures of her hands and arms. She stated that she did hold out her arms and legs so the Ontario P.D. could look at them. The Appellant said she understood her behavior was embarrassing to the Department. The Appellant said she was not aware of the injuries to Ms. [redacted] but based on the pictures they were more evident later in the day. The Appellant denied being responsible for the injuries depicted in the Ontario P.D. pictures. The Appellant said the bruises on Ms. [redacted] neck could have been caused by the picture frame when she held it tightly. The Appellant said she could understand why the Ontario P.D. suspected domestic violence based on the condition of the home when they arrived.

DISCUSSION

Due Process Issue

As a preliminary matter, the question of whether the Appellant's due process rights were violated based on the lack of a second Skelly hearing after the investigation was re-opened must be addressed. Briefly stated, Ms. [redacted] declined to be interviewed, partly on the advice of Appellant's counsel. Ms. [redacted] did prepare a written statement, addressed to Sergeant Manion, and a copy for Ms. Call. Ms. [redacted] gave both copies to the Appellant, who then gave them to Ms. Call. However, Ms. Call did not give Sergeant Manion the letter when the Appellant was interviewed, instead waiting to the Skelly hearing to present the letter to Chief Fender. Upon reviewing the letter, and then talking to Ms. [redacted] (who accompanied the Appellant to

the hearing) the Chief decided to reopen the investigation. The purpose was primarily to fully interview Ms. [redacted] The supplemental investigation consisted of an interview of Ms. [redacted] and a re-interview of the Appellant. As part of the re-interview, the Appellant brought in her mother's picture and it was photographed. The transcript of the interviews and the pictures of the picture frame were reviewed by Chief Fender but were not provided to the Appellant.

The question then, is whether the Appellant's due process rights were violated because a second Skelly hearing was not conducted and copies of the transcripts of the two interviews were not provided. I conclude there was no due process violation. First, the main reason for the re-opening of the investigation was the introduction of Ms. [redacted] letter at the Skelly hearing, rather than during the investigative procedure. Evidence established that the Appellant's representative had a copy of the letter, which was addressed to Sergeant Manion, but chose not to give it to him when the Appellant was interviewed. Had Sergeant Manion received the letter he might have been able to cover the contentions raised in Ms. [redacted] letter in the Appellant's first interview.

Second, the main thrust of the letter, and the primary purpose of the [redacted] interview and the Appellant's re-interview was to address the assertion that the bruises on Ms. [redacted] neck were caused by the picture frame during the "tug of war" between the two women. Chief Fender testified that he concluded the picture frame could not have made the "ligature" marks on Ms. [redacted] neck. Chief Fender also testified that he did not find either woman credible and was of the firm belief that domestic violence had

occurred. Given that testimony, it is apparent that a second Skelly hearing would have served no purpose.

Third, the Department's failure to provide transcripts of the two interviews may have been an error, but it does not rise to the level of a due process violation. The Appellant's representative was present throughout both interviews. The Appellant, Ms. [redacted] and their representative knew what questions were asked, and knew what responses were made. The Appellant's position did not change in the second interview. Although she described the struggle to wrest the picture frame from Ms. [redacted] she denied making any physical contact during the scuffle and could not explain the other injuries incurred by Ms. [redacted]

Finally, applicable case law in *Gilbert v. City of Sunnyvale* (2005, 130 Cal.App.4th, 1264) provides guidance. The Appellant clearly had "notice of the substance of the relevant supporting evidence" prior to the Skelly hearing. That is what is required, and that was provided by the Department.

Analysis and Discussion of Charges

The Discharge Notice contains three distinct charges. First, the Department contends that the Appellant engaged in an act of domestic violence on July 11, 2013, which resulted in injuries to [redacted] Second, the Appellant is charged with failing to cooperate with the Ontario P.D. when she was notified she was being arrested and during the booking process at the Ontario Police Station. Third, the Appellant is charged with being untruthful during her interviews with IAB because she consistently denied that she

engaged in a physical altercation with Ms. Alcaraz. Charges one and three are obviously connected, while charge number two stands alone.

The first question is whether the Appellant engaged in domestic violence on July 11, 2013. The evidence clearly points to a physical altercation between the Appellant and Ms. [redacted] First, the condition of the home when Officer [redacted] arrived is indicative of a violent confrontation. There was blood smeared on the front porch. There were several broken picture frames in the hall, with glass shards littering the carpeted floor. A bent window screen was laying on the living room couch, along with a cell phone on the floor in several pieces. Based on the testimony, it was Ms. [redacted] who was responsible for the damage, but any reasonable person would believe that violent actions had occurred in the home.

Second, when Officer [redacted] arrived both women were still loudly arguing with each other. Ms. [redacted] had multiple injuries which included a cut tongue, bruises and scratches on her arms, a slightly bruised nose, and vivid ligature marks on her neck. The Appellant had a black eye and a small cut below her eye. The question is how did those injuries occur? Regarding the Appellant's eye, it is possible that this was the result of her eye infection and not a physical blow by Ms. [redacted] Although Deputy [redacted] Deputy [redacted] and Sergeant [redacted] all testified that the eye seemed to be much worse in the picture than what they observed at the restaurant, they also said that they joked about the eye, telling the Appellant it looked like she had been hit. Additionally, Sergeant [redacted] testified that she observed the small cut below the Appellant's eye at the restaurant. All three of these witnesses testified credibly. I therefore find it inconclusive that the condition of the

Appellant's eye was due to a blow as opposed to the infection and Appellants crying and rubbing her eye.

However, the injuries to Ms. [redacted] are substantial and numerous. Most prominent are the "ligature" marks on her neck. There is also a scratch or cut on her right wrist, several scratch marks on her right arm near her elbow, a bruise on her right shoulder, a bruise on the underside of her left arm about halfway between her elbow and wrist, cuts to both sides of her tongue, and a bruised nose. All of these injuries are visible in the pictures taken by the Ontario P.D. Quite frankly, I find it impossible to believe these extensive injuries were all self-inflicted.

A much more plausible scenario is that what started as an argument got out of hand and turned into a physical altercation. Parenthetically, there is evidence that points to Ms. [redacted] as the aggressor based on her dialogue with Officer [redacted] and Sergeant [redacted] Consider this exchange between Officer [redacted] and Ms. [redacted] (Dept. ex.26, pg. 10):

[redacted] I know, but I treat her like shit and I kind of go ape shit like all the time so I don't know why. I mean you know? Molly. You know? I'm Mexican come on.

Officer 1: That doesn't describe your marks on your body though.

[redacted] She's really good to me. I know that you guys think like oh, a Sergeant's like…you're a Sergeant. Come on. You wouldn't just grab people unless they were trying to attack you. I was attacking her. How about that?

Officer 1: Not what you told us earlier.



[redacted] We just fought.

And this exchange a few seconds later (Dept. ex. 26, pg. 11):

Officer 1: It's fine. It's fine to get mad and break stuff, but I want to know what happened to your neck, to your arms, to your…

[redacted] Maybe she was trying to stop me and that's normal. You would try to stop me if I did it to you.

Officer 1: So how did she try to stop you?

[redacted] I don't know because I don't remember that.

And finally, this exchange between Sergeant [redacted] and Ms. [redacted] (Dept. ex. 27, pg. 4):

Officer: I want you to take a look at the marks.

[redacted]: You don't understand.

Officer: So you will understand what we're talking about.

[redacted]: Okay. I want to pick up a pillow okay, can I pick that up?

Officer: Yeah, pick it up.

[redacted]: No, nothing. It's not the cleanest. Just so I'm, sorry about that.

Officer: It's all right. Take a look in the mirror. You see exactly what I'm talking about.

[redacted]: Well, but there's all the blood that I did.

Officer: Oh no, there's, that's not blood.

[redacted]: But look at all this other, oh my God, I didn't know it was like this.

Officer: Uh huh (affirmative)

[redacted]: This is all from everything.

As part of the review in this case I listened to the recording of the interaction between Ms. [redacted] and the Ontario P.D. When Ms. [redacted] says "oh my God, I didn't know it was like this" there is genuine surprise in her intonation. The contention that the ligature marks were made by the picture frame simply does not comport with the physical evidence. While the picture frame could have caused a bruise if held tightly to the neck, it is highly unlikely, if not impossible, that it would have caused three bruises. Additionally, the picture frame is not smooth; there are a number of decorations on the front and sides of the frame that almost certainly would have caused abrasions in the same area as the ligature marks.

I'm not going to speculate as to how the bruises on the neck and the other injuries occurred. They may have been the result of the struggle over the picture, or there may have been more than one altercation. It's even possible that some of the injuries happened when Ms. [redacted] climbed back into the house through the window. But the preponderance of evidence establishes there was some physical contact between the two women and that Ms. [redacted] suffered multiple injuries. The first charge is therefore sustained.

The second charge is basically a failure to cooperate with the Ontario P.D. upon arrest and during the booking process. There are two parts to this, the Appellant's reaction upon being placed under arrest, and her refusal to be photographed during the booking process. Regarding the first part, the Department has not proved by a preponderance of the evidence that the Appellant was uncooperative during the arrest itself. I listened carefully to the recording of the arrest procedure and read the transcript. While there

was some slight delay in compliance, it was not significant enough to be characterized as a failure to cooperate or a delay in the arrest procedure. The Appellant's refusal to be photographed during the booking process is another matter. There was no compelling reason to refuse to be photographed. Moreover, the Appellant was advised by her Captain to cooperate, and warned by Ontario P.D. that she would be subject to an additional charge if she continued to refuse to cooperate. Despite that, the Appellant still refused to be photographed. The Appellant admitted during her testimony that her behavior at the station caused embarrassment to the Department (Trans. pg. 1020). The second charge is therefore sustained.

The third chare is that the Appellant was untruthful during her interviews with IAB because she denied there was any physical altercation with Ms. [redacted] As stated earlier, this charge is linked to and dependent on charge number one. If charge number one is true, then the denial of domestic violence as a charge must also be true. The Appellant was interviewed twice. During both interviews she denied any physical altercation beyond the struggle over the picture frame. The Appellant had no explanation for the various injuries to Ms. [redacted] other than advancing the theory in the second interview that the picture frame had somehow caused the bruises on Ms. [redacted] neck. Given the findings in the first charge; that a physical altercation did take place, it follows that this charge must also be sustained.

Appropriate Level of Discipline

Given the Appellant's length of service, unblemished service record, and the fact that the evidence points to Ms. [redacted] as the aggressor in this domestic

dispute, I might have concluded that a lesser penalty was appropriate were I the decision maker in this case. However, considering there are multiple charges, the serious nature of the charges, and the totality of the circumstances, a penalty of discharge is not unreasonable. The decision maker in this case gave adequate consideration to the mitigating factors, and his decision was not an abuse of discretion.

FINDINGS OF FACT

1. The Appellant has been employed by the Department since August 1996.

2. On July 10, 2013, the Appellant went out to dinner with some fellow employees and her domestic partner, [redacted]

3. At or around 11:00 p.m. the Appellant and [redacted] went home. Deputies [redacted] and [redacted] also drove to their home.

4. Deputies [redacted] and [redacted] stayed for about an hour at the Barr/[redacted] home, and then left.

5. After Deputies [redacted] and [redacted] left, the Appellant and Ms. [redacted] began to argue.

6. At some point Ms. [redacted] took a picture of the Appellant's mother off the wall. The Appellant demanded the picture. The two women struggled over the picture.

7. At 1:24 a.m. (now July 11, 2013) Ms. [redacted] phoned 911 from a fax machine in one of the bedrooms, but hung up before speaking to the dispatcher.

8. Ontario P.D. Officer [redacted] responded to the call. After separating and briefly interviewing both women and learning the Appellant was a peace officer, Officer [redacted] requested a Supervisor.

9. Ontario P.D. Sergeant [redacted] and Corporal [redacted] subsequently responded to the call for assistance.

10. Upon interviewing both women and observing the injuries to Ms. [redacted] Sergeant [redacted] made the decision to arrest the Appellant for domestic violence.

11. Upon being advised she was under arrest, the Appellant, after some hesitation, was handcuffed. This hesitation did not rise to the level of non-compliance.

12. The Appellant refused to be photographed during the booking process, despite advice from her superior officer to cooperate, and a warning from the Ontario P.D. that she would be subject to an additional charge. This refusal did rise to the level of non-compliance.

13. The Appellant was initially placed off duty, but returned to duty in February 2014 and worked until November 2014 without incident.

14. At the time of the incident Appellant denied engaging in a physical altercation or causing any injury to Ms. [redacted]

15. Ms. [redacted] had numerous injuries, observed and documented by the Ontario P.D., which included ligature marks on her neck, scratches and bruises on her arms, a slightly swollen nose and cuts on either side of her tongue.

16. During the investigative interviews, the Appellant admitted that there was a struggle over her mother's picture, but denied causing any injuries to Ms. [redacted] during the struggle or at any other time.

17. Based on the physical evidence, it is determined that the picture frame could not have caused the bruising on Ms. [redacted] neck.

18. A second Skelly hearing was not conducted following the re-opening of the investigation.

CONCLUSIONS OF LAW

1. Charge number one, that the Appellant engaged in an act of domestic violence on July 11, 2013, is true.

2. Charge number two, that the Appellant delayed and/or obstructed a police investigation when she refused to be photographed while being booked on July 11, 2013, is true.

3. Charge number three, that the Appellant failed to be truthful when she denied engaging in domestic violence during her investigative interviews is true.

4. Discharge is within the Department guidelines, not unreasonable given the circumstances and multiple charges, and is not an abuse of discretion.

5. The Department did not violate the Appellant's due process rights when they did not conduct a second Skelly hearing and did not provide transcripts of interviews following the re-opening of the investigation.

RECOMMENDATION

It is recommended that the Department's decision to discharge the Appellant be upheld by the Civil Service Commission.

Respectfully submitted,

David P. Beauvais
Hearing Officer
DATE: September 24, 2015



County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

November 15, 2013

Sergeant Linda A. Barr, #[redacted]
[redacted]

Dear Sergeant Barr:

On September 4, 2013, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2316815. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you were discharged from your position of Sergeant, Item No. 2717A, with this Department, effective as of the close of business on November 14, 2013.

An investigation under File Number IAB 2316815, conducted by Internal Affairs Bureau has established the following:

1. That in violation of Manual of Policy and Procedures Sections, 3-01/030.05, General Behavior; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders [as it pertains to 273.5(a) P.C., Inflict Corporal Injury (Domestic Assault), and/or 415 P.C., Disturbing the Peace]; and/or 3-01/030.16, Family Violence; and/or 3-01/000.10, Professional Conduct, on or about July 11, 2012, while off-duty, you engaged in an act of domestic violence when you and [redacted] battered each other, causing injury to each other. You were placed under arrest by officers from the Ontario Police Department and charged with 273.5(a) P.C., Inflict Corporal Injury (Domestic Assault). You pled nolo contendere to a charge of 415 P.C., Disturbing the Peace, on February 6, 2013, in

Division R20 of the San Bernardino Superior Court. You were ordered to pay fines and restitution and attend anger management courses. You were placed on twelve months probation and ordered to serve one day in jail. Your actions did not conform to the Department's Core Values, as you failed to act with integrity and treat [redacted] with dignity. Your conduct caused embarrassment to the Department and brought discredit upon yourself and/or the Department.

2. That in violation of Manual of Policy and Procedures Sections, 3-01/000.10, Professional Conduct; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders [as it pertains to 148(a) P.C., Delaying/Resisting a Police Officer]; and/or 3-01/040.76, Obstructing an Investigation, on or about July 11, 2011, you failed to cooperate with personnel from the Ontario Police Department during a criminal investigation regarding a possible domestic violence incident and subsequent arrest when you refused to have your face, arms, and legs photographed for evidentiary purposes, and/or refused to place your hands behind your back when ordered. Your conduct did not conform to the Department's Core Values, as you failed to act with integrity and treat personnel from the Ontario Police Department with dignity. Your conduct caused embarrassment to the Department as evidenced by, but not limited to:

   a. failing to comply with Ontario Police Department Officer [redacted] request for you to place your hands behind your back, and/or pulling away from the officer when he attempted to grasp your arms; and/or

   b. admitting you did wait a few minutes before complying with Ontario Police Department Officer [redacted] directions when he attempted to arrest you; and/or

   c. stating to Ontario Police Department Officer [redacted] that you would not do anything until you made a telephone call, and/or words to that effect; and/or

   d. stating to Sergeant [redacted] of the Ontario Police Department, "Oh, well, you are delaying my life, putting me here when I shouldn't be here;" and/or

e. admitting that your response to Sergeant [redacted] that they were delaying your life was unprofessional and could have been handled differently, and/or words to that effect; and/or

f. stating, "No," when requested to submit to a photograph of your injuries for evidentiary value; and/or

g. admitting that you refused to have your photograph taken; and/or

h. stating, "Yes," when Sergeant [redacted] asked if you refused to be photographed; and/or

i. being additionally charged with Delaying/Resisting a Police Officer pursuant to 148(a) P.C. when you were booked by personnel from the Ontario Police Department; and/or

j. pleading nolo contendere to a charge of 415 P.C., Disturbing the Peace, on February 6, 2013, in Division R20 of the San Bernardino Superior Court and being ordered to pay fines and restitution, and attend anger management courses. You were placed on twelve months probation and ordered to serve one day in jail.

3. That in violation of Manual of Policy and Procedures Section, 3-01/040.75, Failure to Make Statements and or Making False Statements During Departmental Internal Investigations, on or about July 29, 2013, you failed to make complete, and/or truthful statements, and/or made false statements during an internal interview as evidenced by, but not limited to:

a. denying you were involved in a physical altercation with [redacted] and/or

b. stating that you did not know how [redacted] sustained injuries to her body as documented in photographs by personnel from the Ontario Police Department; and/or

c. denying that you assaulted [redacted] and/or

d. denying that you were assaulted by [redacted]

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

David L Fender

DAVID L. FENDER, CHIEF
CUSTODY SERVICES DIVISION SPECIALIZED PROGRAMS

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

DLF:RAA:AEA:md

c: Advocacy Unit
David L. Fender, Chief, Custody Services Division Specialized Programs
Joseph B. Nu□ez, Captain, Century Regional Detention Facility
Internal Affairs Bureau
Office of Independent Review (OIR)
Judy A. Gerhardt, Captain, Personnel Administration